

TENNESSEE BOARD OF DISPENSING OPTICIANS

DATE: October 5, 2005

TIME: 9:00 A.M.

LOCATION: Cumberland Room
Ground Floor, Cordell Hull Building
425 5th Ave. North
Nashville, TN 37247

BOARD MEMBERS

PRESENT: Kelly Godsey, DPO, Chair
Felda Stacey, DPO, Secretary
P.R. Happy Moyer, DPO
Peggy Hannah, DPO
Edward Risby, DPO
Stacey Chitwood, DPO

STAFF

PRESENT: Joan Burk, Board Administrator
Nicole Armstrong, Advisory Attorney
Barbara Maxwell, Administrative Director
Stacy Lannan, Licensing Technician
Jerry Kosten, Rules Coordinator

Mr. Godsey, chair, called the meeting to order at 9:08 A.M. All board members were present.

Conflict of Interest

Ms. Armstrong reviewed the conflict of interest policy with the board asking the board members to disclose any conflict of interest they may have prior to contested cases or any other legal proceedings or matters to determine if there is a conflict of interest. Ms. Armstrong stated that if a board member does have a conflict of interest they must recuse themselves from the proceedings and leave the hearing room during the hearing.

Contested Case Hearing for Kevin L. Miller

Administrative Law Judge, Lynn England, presided over the case hearing for Kevin L. Miller. Alicia Hodge, Assistant General Counsel, represented the State. Mr. Miller was not present for the hearing. Upon a finding of a preponderance of evidence, Mr. Miller was found to have exceeded the scope of his license.

Ms. Moyer made a motion, seconded by Ms. Chitwood, to accept the allegations of fact as findings of facts six (6) thru fifteen (15) and amend fourteen (14) to say "Vision Masters". The motion carried.

Ms. Moyer made a motion, seconded by Ms. Hannah, to accept the causes of action as the conclusion of law. The motion carried.

Mr. Godsey made a motion, seconded by Ms. Moyer, to revoke Mr. Miller's license, charge him for the hearing and have him pay a \$1,000.00 penalty fee. The motion carried.

Mr. Godsey made a motion, seconded by Mr. Risby, to adopt the policy statement "This action is being taken for the health and welfare of the citizens of the State of Tennessee". The motion carried.

Contested Case Hearing for Cyndie Baggett

Administrative Law Judge, Lynn England, presided over the case hearing for Cyndie Baggett. Alicia Hodge, Assistant General Counsel, represented the State. Ms. Baggett was not present for the hearing. Ms. Baggett was operating a dispensary, Erin Optical in Erin, TN. She was the owner/operator and the sole employee but had never been licensed as a dispensing optician by the State of Tennessee. She worked unlicensed from April 2004 until at least August 27, 2004.

Ms. Hannah made a motion, seconded by Mr. Risby, to accept the allegations of fact as the findings of fact. The motion carried.

Ms. Chitwood made a motion, seconded by Mr. Risby, to accept the causes of action as the conclusions of law. The motion carried.

Mr. Godsey made a motion, seconded by Ms. Hannah to assess Ms. Baggett a \$5,000.00 civil penalty fee. The motion carried.

Mr. Godsey made a motion seconded by Mr. Risby, to adopt the policy statement "This action is being taken for the health and welfare of the citizens of the State of Tennessee". The motion carried.

Approval of Minutes

Upon review of the June 8, 2005 board meeting minutes, Ms. Hannah made a motion, seconded by Ms. Chitwood, to approve the minutes as written. The motion carried.

Investigation Report

Ms. Armstrong reviewed the investigative report with the board stating there are six (6) complaints have been closed in investigations and two (2) cases remain open.

Disciplinary Report

Ms. Armstrong reviewed the disciplinary report stating there are two (2) practitioners currently being monitored. Ms. Armstrong said following the report is a history of Dispensing Opticians who have been disciplined by the board.

Office of General Counsel Report (OGC)

Ms. Armstrong reviewed the Office of General Counsel report stating Rule 0480-1-.05, .06, .08, .09, .11, .12, .14, .22, regarding the creation of a new practical exam, CE documentation and apprenticeship notification provisions is being reviewed by the Attorney General.

Ms. Armstrong stated the Office of General Counsel currently has six (6) open files pertaining to the Board of Dispensing Opticians.

Jerry Kosten, Rules Coordinator

Mr. Kosten stated Rule 0480-1-.03 regarding use of title will be amended to state any person who possesses a valid, unsuspended and unrevoked license issued by the board has the right to use the title “Licensed Dispensing Optician” and to practice as a dispensing optician as defined in T.C.A. §§ 63-14-102. Violation of this rule regarding use of titles shall subject the licensee to disciplinary action.

Mr. Kosten discussed a bill in legislation that allows health related boards to use a screening panel. Mr. Kosten said the panel would hear complaints from those persons who have agreed to have their complaints heard before the panel rather than going through OGC and the panel would make a decision on those complaints. If the complainant did not agree with the panel’s decision, then the case would be sent to Investigations for their involvement.

Mr. Kosten stated Rule 0480-1-.14, Apprenticeship Training Program, is amended by deleting paragraph (7) in its entirety.

Ms. Hannah made a motion, seconded by Ms. Chitwood, to accept the amended rules regarding use of titles, screening panels, and advertising and send them to rulemaking hearing. The motion carried.

Ms. Burk referred the board to Rule 0480-1-.04 which states if applicant holds unrestricted dispensing opticians license in another state, the length of time for that states experience requirement shall be considered as time toward fulfilling Tennessee’s three year requirement.

Upon discussion, Ms. Moyer made a motion, seconded by Ms. Hannah, to amend the language in Rule 0480-1-.04 regarding licensure requirement to read: If the applicant holds an unrestricted dispensing optician license in another state, the length of time for

that state's training and supervised experience requirements for initial licensure shall be considered as time toward fulfilling Tennessee's three (3) year requirement. The motion carried.

Discussion of Rules regarding Medical Doctors writing prescriptions for glasses/contact lenses for daughter

Mr. Kosten stated medical doctors cannot prescribe out of their specialty but there is no rule that states medical doctors cannot write prescriptions for glasses and contact lenses.

Failure of Practical Exam

Ms. Armstrong said she will speak with Brenda Newsom regarding testing those persons who fail a portion of the practical given by the board after the testing agency begins testing.

Financial Report

Ms. Burk reviewed the financial report stating there is a cumulative carryover from June 30, 2005 of \$177,918.16.

Administrative Report

Ms. Burk reviewed the administrative report stating there are 816 licensed opticians, 179 retired, 370 in failed to renew status, and 97 deceased dispensing opticians. Ms. Burk gave the board members a breakdown of newly licensed, reinstatements and retired dispensing opticians.

Ms. Burk stated between May 23, 2005 and September 16, 2005, 99 licensees renewed their license, 22 of those renewed online. Ms. Burk stated all files have been imaged.

Ms. Burk stated the contract for the practical examination has been awarded to The Learning Curve who will begin giving the exam March, 2006.

Discuss changes to Application

Upon discussion of the changes to the application, Mr. Risby made a motion, seconded by Ms. Moyer, to accept the amended application. The motion carried.

Changes to Supervisor Form, Semi-Evaluation Form and Direct Supervisor Form

Upon review of the changes made to the Supervisor form, Semi-Evaluation Form and Direct Supervisor Form, Ms. Moyer made a motion, seconded by Ms. Chitwood, to accept the amended forms. The motion carried.

Schedule Board Meeting Dates for 2006

Upon review of the 2006 board meeting dates, Ms. Hannah made a motion, seconded by Ms. Chitwood, to approve the following dates:

January 11, 2006
March 29, 2006
June 14, 2006
October 11, 2006

The motion carried.

Files to be ratified

Ms. Moyer made a motion, seconded by Ms. Chitwood, to ratify the following newly license dispensing opticians:

Lynn Monk
Emily Tuck

The motion carried.

Reinstatements

Upon review of the reinstatement application for **Julie K. Harvey**, who was working as a Dispensing Optician on an expired license, Ms. Chitwood made a motion, seconded by Ms. Moyer, to deny Ms. Harvey's request for reinstatement. The motion carried.

Upon review of the reinstatement application for **Gary Campbell**, Ms. Moyer made a motion, seconded by Ms. Chitwood, to ratify the reinstatement of Mr. Campbell. The motion carried.

Upon review of the reinstatement application for **Valerie Conklin**, Ms. Moyer made a motion, seconded by Mr. Risby, to ratify the reinstatement of Ms. Conklin. The motion carried.

Continuing Education

Ms. Maxwell stated the Tennessee Dispensing Opticians Association (TDOA) newsletter made the statement that Roy Ferguson can no longer offer continuing education courses because he was awarded the practical examination contract. Ms. Maxwell stated that Mr. Ferguson can continue to offer continue education courses.

Ms. Moyer made a motion, seconded by Ms. Hannah, to approve **Costco Wholesale Optical Conference** October 20-21, Orlando, Florida. Each course will be 50 minutes (1 unit of credit) All courses are ABO/NCLE approved.

October 20, 2005 Courses, Speaker Janet Spiegel. Topic: Silicone Hydrogel Lens Technology (1 hr. contact lens); and The science of lens care (1 hr. contact lens)
October 22, 2005 Courses, Speaker: Linda Eschenburg. Topic: Customer Service Excellence (1 hr. non-specific); and How to Hire the Right People (1 hr. non-specific).
Speaker: Buddy Russell. Topic: Current Trends in a Specialty Contact Lens Practice (1 hr. contact lens).

The motion carried.

Mr. Godsey made a motion, seconded by Ms. Moyer, to approve **National Academy of Opticianry** October 22-23, 2005, Orlando, Florida (ABO Advanced Certification Exam Review Course):

October 22, 2005 Courses, Speaker: Wm. B. Underwood. Topic: Refraction (2 hrs);
Speaker: Michael R. DiSanto. Topic: Ophthalmic Optics (2 hrs); **Speaker:** Diane Drake. Topic: Anatomy and Physiology of the Eye (2 hrs)
October 23, 2005 Courses, Speaker: Diane Drake. Topic: Human Resources & Physical Management (2 hrs); **Speaker:** Wm. B. Underwood. Topic: Verification and Dispensing (2 hrs); **Speaker:** Wm. B. Underwood. Topic: Contact Lenses for the Presbyope (1 hr);
Speaker: Michael R. DiSanto. Topic: Lens Design (1 hr); **Speaker:** Diane Drake. Topic: Patient Communications (1 hr).

The motion carried.

Ms. Chitwood made a motion, seconded by Ms. Moyer, to deny the continuing education course submitted by **Allied Eye Associates**. The motion carried.

Ms. Hannah made a motion, seconded by Ms. Moyer, to approve **Opticians Association of America**, October 20-23, 2005, Ft. Lauderdale, Florida:

Speaker: Bruce Springer. Topic: Gas Permeable Bifocals (1 hr) and Principles of Soft Lens Fitting (1 hr). **Speaker:** Phyllis Rakow. Topic: When to Refer (1 hr), When a contact Lens Wearer Needs Spectacles (1 hr), and New Horizons in Extended Wear (1 hr). **Speaker:** B.W. Phillips. Topic: What's New- A Contact Lens Update (1 hr), Specialty Contact Lenses for the Abnormal Cornea (1 hr), and, Contact Lenses for Astigmatism (1 hr). **Speaker:** Michael Gzik. Topic: Multipurpose Solutions (1 hr), Aspheric Lens Design (1 hr), Wavefront Aberrations (1 hr), and, Materials and Design for Extended Wear Lenses (1 hr). **Speaker:** Michael Szczerbiak. Topic: Not your Average Patient Part I and Part II (2 hrs), Pediatric Dispensing Tips (1 hr), and, Practical Prism Applications (1 hr). **Speaker:** William Verde. Topic: Streamline, Simplify, and Succeed (1 hr). **Speaker:** Laurie Pierce. Topic: Progressive Lens Technologies, Design and Engineering (1 hr), Premium Lens Products- Then and Now (1 hr), Refractions- Rentinoscopy (1 hr), and, Occupational Lenses (1 hr). **Speaker:** Carol Norbeck. Topic: The Five Secrets of a Specialty Optical Retailer (1 hr), Individual Choices- Understanding Lifestyle Education (1 hr), Practice Sunglass Success (1 hr), and, Art of

Glazing & Selling Rimless Eyewear. **Speaker:** Gary Falk. Topic: Prescription Polarized Lenses Today (1 hr), Going Beyond UV Protection: The Melanin Story (1 hr), and, The Second Paid Sale- A Focus on Presenting Not Pricing. **Speaker:** Ed DeGennaro. Topic: Tips for Taking Rimless Eyewears (2 hrs).

The motion carried.

Ms. Chitwood made a motion, seconded by Ms. Moyer, to deny the continuing education courses submitted by **Professional Opticians of Florida** on October 7, 2005 in Reno, Nevada and October 21, 2005 in Orlando, Florida. The motion carried.

New Correspondence

Upon review of the letter from **Deborah L. Vess**, requesting waiver of continuing education for 2003 and 2004 due to illness, Ms. Chitwood made a motion, seconded by Ms. Moyer, to request more information from Ms. Vess. The motion carried.

Upon review of the letter from J. **Deborah Todd**, requesting waiver of continuing education for 2003 due to family hardship, Ms. Moyer made a motion, seconded by Ms. Moyer, to deny the request of Ms. Todd. The motion carried.

Ratification of Closed Files

Ms. Moyer made a motion, seconded by Ms. Hannah, to ratify the following applications be closed:

Gary Conn
Leslie Oliver Cook
Camila Cowart
Brandy Davis
Joy R. Dykes
Jessica Fiveash
Ann Marie Goode
Steven Kasprzak
Kayla Keller
James March
Vicky Mawawa
Krystal R. Malone
Marianna Napolitano
Jana Odom
Edwina Patton
Teresa Pearce
Rebecca Rickard
Kristin Rose
Shawn Patrick Roy
Loretta Springer

Laura Stubbs
Bonny Walters
Kenneth Wormsley

The motion carried.

Mr. Godsey stated the board really appreciates Ms. Burk.

With no other business to conduct, Ms. Hannah made a motion, seconded by Mr. Risby, to adjourn the meeting at 3:56 p.m. The motion carried.

Ratified by the Board of Dispensing Opticians on January 11, 2006